

Short Title: Revised Uniform Athlete Agents Act.

A BILL TO BE ENTITLED

AN ACT TO ENACT THE REVISED UNIFORM ATHLETE AGENTS ACT.

The General Assembly of North Carolina enacts:

SECTION 1. Article 9 of Chapter 78C of the General Statutes is repealed.

SECTION 2. Chapter 78C of the General Statutes is amended by adding a new Article to read:

"ARTICLE 10.

"REVISED UNIFORM ATHLETE AGENTS ACT.

§ 78C-111. Short title.

This Article may be cited as the Revised Uniform Athlete Agents ~~Act (2015).~~ Act.

§ 78C-112. Definitions.¹

~~In this {act}:~~ The following definitions apply in this Article:

- (1) Agency contract. – An agreement in which a **student athlete** authorizes a person to negotiate or solicit on behalf of the **student athlete** a professional-sports-services contract or endorsement contract.

Staff Note: Subdivision (1) is comparable to G.S. 78C-86(1).

- (2) ~~"Athlete agent":~~ Athlete agent. –

- a. ~~means an~~ An individual, whether or not registered under this

¹**Staff Note:** This draft is based on the Revised Uniform Athlete Agents Act (2015), as approved by the Uniform Law Commission. The changes shown by striking-through and underlining are changes to the Uniform Act, not to the current law. In addition to those changes, the designators "a.," "1.," and "I." are substituted for the Uniform Act's designators "(A)," "(i)," and "(I)" in this section and throughout the draft to conform to the numbering system used in the General Statutes. Other style changes not specifically marked include capitalizing the first word in a tabular list, capitalizing "state" when referring to North Carolina, adding "of this section" after subsection and subdivision references, and using the entire defined term throughout the draft rather than a short form. Provisions relating to the interstate compact registration option (including those marked "Alternative B" in the Uniform Act) are not included because of the decision to continue the state registration system.

Article, ~~who:~~ who does any of the following:

1. Directly or indirectly recruits or solicits a **student athlete** to enter into an agency contract or, for compensation, procures employment or offers, promises, attempts, or negotiates to obtain employment for a **student athlete** as a professional athlete or member of a professional sports team or ~~organization;~~ organization.

2. For compensation or in anticipation of compensation related to a **student athlete's** participation in ~~athletics:~~ athletics, does any of the following:

I. Serves the **student athlete** in an advisory capacity on a matter related to finances, business pursuits, or career management decisions, unless the individual is an employee of an educational institution acting exclusively as an employee of the educational institution for the benefit of the ~~institution; or~~ educational institution.

II. Manages the business affairs of the **student athlete** by providing assistance with bills, payments, contracts, or ~~taxes; or~~ taxes.

3. In anticipation of representing a **student athlete** for a purpose related to the **student athlete's** participation in ~~athletics:~~ athletics, does any of the following:

- I. Gives consideration to the **student athlete** or another ~~person; person.~~
- II. Serves the **student athlete** in an advisory capacity on a matter related to finances, business pursuits, or career management ~~decisions; or decisions.~~
- III. Manages the business affairs of the **student athlete** by providing assistance with bills, payments, contracts, or ~~taxes; but taxes.~~

4. Represents to the public that the individual is an athlete agent.

Staff Note: Sub-subdivision (2)a. defines four different sets of activities that cause a person to be an "athlete agent." The first, in sub-sub-subdivision (2)a.1., continues part of the existing definition in G.S. 78C-86(2), that is, directly or indirectly recruiting or soliciting a student athlete to enter into an agency contract; sub-sub-subdivision (2)a.1. also adds procuring employment or offering, promising, attempting, or negotiating to obtain employment for a student athlete as a professional athlete or member of a professional sports team or organization when any of those actions are done for compensation. Sub-sub-subdivisions (2)a.2. and (2)a.3. describe the second and third sets of activities; these are new to current law. The fourth, in sub-sub-subdivision (2)a.4., is the act of holding oneself out as an athlete agent; this provision is in the definition of "athlete agent" in current G.S. 78C-86(2) but was omitted from revised Uniform Act.

b. ~~Does~~ The term "athlete agent" does not include an individual ~~who:~~
who does any of the following:

1. Acts solely on behalf of a professional sports team or ~~organization; or organization.~~
2. Is a licensed, registered, or certified professional and offers or provides services to a **student athlete** customarily provided by members of the profession, unless the

~~individual;~~ individual does any of the following:

I. Also recruits or solicits the **student athlete** to enter into an agency ~~contract;~~ contract.

II. Also, for compensation, procures employment or offers, promises, attempts, or negotiates to obtain employment for the **student athlete** as a professional athlete or member of a professional sports team or ~~organization;~~ or organization.

III. Receives consideration for providing the services calculated using a different method than for an individual who is not a **student athlete.**

Staff Note: Sub-subdivision (2)b. continues to exclude from the definition of "athlete agent" an individual who acts solely on behalf of a professional sports team or organization. Sub-subdivision (2)b. eliminates the current law's broad exclusion from the definition of "athlete agent" for an individual who is a spouse, parent, sibling, or guardian of the student athlete; these are now partly covered by an exclusion to the definition of "recruit or solicit," which is new to current law. Sub-subdivision (2)b. adds an exclusion for a "licensed, registered, or certified professional" as defined in subdivision (11) of this section. Please note that the revised act did not bring forward the specific limited exclusion for attorneys found in G.S. 78C-88(c).

(3) Athletic director. – The individual responsible for administering the overall athletic program of an educational institution or, if an educational institution has separately administered athletic programs for male students and female students, the athletic program for males or the athletic program for females, as appropriate.

Staff Note: Subdivision (3) is comparable to G.S. 78C-86(3).

(4) Reserved.

(5) Reserved.

Staff Note: Bracketed subdivisions (4) and (5) are necessary only if a state adopts Alternative B, creating a central registration agency. Since that alternative has not been adopted, the text of those definitions has been deleted and the subdivisions marked "reserved."

- (6) Educational institution. – Includes a public or private elementary school, secondary school, technical or vocational school, community college, college, and university.

Staff Note: Subdivision (6) is new to current law. It is added to make clear that the Article is intended to apply to all educational institutions, whether public or private, and all levels of education.

- (7) Endorsement contract. – An agreement under which ~~a student athlete~~ an individual is employed or receives consideration to use on behalf of the other party any value that the ~~athlete~~ individual may have because of publicity, reputation, following, or fame obtained because of athletic ability or performance.

Staff Note: Subdivision (7) is comparable to G.S. 78C-86(5). The term "endorsement contract" is used only in subdivision (1), which defines "agency contract." The General Statutes Commission changed "a student athlete" to "an individual" at its December 2016 meeting.

- (8) Enrolled. – Registered for courses and attending athletic practice or class.
"Enrolls" has a corresponding meaning.

Staff Note: Subdivision (8) is new to current law.

[(8a) Former student athlete. – Any of the following:

- a. An individual who is ineligible to engage in an interscholastic or intercollegiate sport only because the individual executed an agency contract, a professional-sports-services contract, or an endorsement contract or received anything of value from an athlete agent and who would otherwise qualify as a student athlete.**

b. An individual who exhausted his or her eligibility to engage in an interscholastic or intercollegiate sport within the preceding six months, whether or not the individual is still enrolled in an educational institution.]

[Staff Note: This definition is not in the Uniform Act and is new to current law. Sub-subdivision (8a)a. is designed to cover individuals who technically are no longer eligible to engage in an interscholastic or intercollegiate sport but who are clearly intended to be included in some provisions in the Uniform Act (e.g., § 78C-121). Sub-subdivision (8a)b. is designed to expand the protections of the act to individuals who have recently exhausted their eligibility.]

(9) Intercollegiate sport. – A sport played at the collegiate level for which eligibility requirements for participation by a student athlete are established by a national association that promotes or regulates collegiate athletics.

Staff Note: Subdivision (9) is comparable to G.S. 78C-86(6).

(10) Interscholastic sport. – A sport played between educational institutions that are not community colleges, colleges, or universities.

Staff Note: Subdivision (10) is new to current law. The term "interscholastic sport" is used in the definition of "student athlete" in subdivision (19) of this section and in § 78C-126(a)(1).

(11) Licensed, registered, or certified professional. – An individual licensed, registered, or certified as an attorney, dealer in securities, financial planner, insurance agent, real estate broker or sales agent, tax consultant, accountant, or member of a profession, other than that of athlete agent, who is licensed, registered, or certified by the ~~state~~ State or a nationally recognized organization that licenses, registers, or certifies members of the profession on the basis of experience, education, or testing.

Staff Note: Subdivision (11) is new to current law. The term "licensed, registered, or certified

1 *professional" is used in the definition of "athlete agent" in subdivision (2) of this section.*

2
3 (12) Person. – An individual, estate, business or nonprofit entity, public
4 corporation, government or governmental subdivision, agency, ~~or~~
5 ~~instrumentality, or other legal entity.~~ instrumentality, business trust,
6 partnership, limited liability company, association, joint venture, or any
7 other legal or commercial entity.

8 **Staff Note:** *Subdivision (12) is modified to be consistent with the definition of "person" used in*
9 *recent uniform acts considered by the General Statutes Commission. Please note that subdivision*
10 *(12) is different from the definition of "person" in G.S. 78C-86(7).*

11
12 (13) Professional-sports-services contract. – An agreement under which an
13 individual is employed as a professional athlete or agrees to render
14 services as a player on a professional sports team or with a professional
15 sports organization.

16 **Staff Note:** *Subdivision (13) is comparable to G.S. 78C-86(8).*

17
18 (14) Record. – Information that is inscribed on a tangible medium or that is
19 stored in an electronic or other medium and is retrievable in perceivable
20 form.

21 **Staff Note:** *Subdivision (14) is comparable to G.S. 78C-86(9).*

22
23 (15) Recruit or solicit. – Attempt to influence the choice of an athlete agent by
24 a student athlete or, if the student athlete is a minor, a parent or guardian
25 of the student athlete. The term does not include giving advice on the
26 selection of a particular athlete agent in a ~~family, coaching, or social~~
27 ~~family or coaching~~ situation unless the individual giving the advice does
28 so because of the receipt or anticipated receipt of an economic benefit,

directly or indirectly, from the athlete agent.

Staff Note: Subdivision (15) is new to current law. The Uniform Act's definition of "recruit or solicit" excludes giving advice on the selection of a particular athlete agent in a family, coaching, or social situation unless the advice is given because of the receipt or anticipated receipt of compensation from the agent. Because the term "social situation" is vague, the General Statutes Commission deleted the reference to "social situation" in this draft.

(16) Registration. – Registration as an athlete agent under this Article.

Staff Note: The definition of "registration" in subdivision (16) differs from the current definition of "registration" in G.S. 78C-86(10) in order to accommodate the alternative registration approaches.

(17) ~~"Sign" means, with~~ Sign. – With present intent to authenticate or adopt a ~~record;~~ record, to do any of the following:

- a. ~~to execute~~ Execute or adopt a tangible ~~symbol; or~~ symbol.
- b. ~~to attach~~ Attach to or logically associate with the record an electronic symbol, sound, or process.

Staff Note: Subdivision (17) is new to current law.

(18) State. – A state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

Staff Note: Subdivision (18) is new to current law.

(19) Student athlete. – An individual who is eligible to attend an educational institution and engages in, is eligible to engage in, or may be eligible in the future to engage in, any interscholastic or intercollegiate sport. [The term also includes a former student athlete. Unless the individual qualifies as a former student athlete, the ~~The~~ term does not include an individual permanently ineligible to participate in a particular interscholastic or

intercollegiate sport for that sport.] [The term also includes an individual who exhausted his or her eligibility to engage in an interscholastic or intercollegiate sport within the preceding six months, whether or not the individual is still enrolled in an educational institution. The term does not include an individual permanently ineligible to participate in a particular interscholastic or intercollegiate sport for that sport-sport, except for an individual who is ineligible to engage in an interscholastic or intercollegiate sport only because the individual executed an agency contract, a professional-sports-services contract, or an endorsement contract or received anything of value from an athlete agent and who would otherwise qualify as a student athlete.]

Staff Note: Subdivision (19) in the Uniform Act is similar to G.S. 78C-86(11) but adds the reference to "interscholastic sport," defined in subdivision (10) of this section. The Uniform Act's definition is modified to (i) expand the protections of the act to individuals who have recently exhausted their eligibility to engage in an interscholastic or intercollegiate sport and (ii) allow the term "student athlete" to cover individuals who are technically no longer eligible because they entered an agency or other contract or received something of value from an athlete agent and thereby lost their eligibility but who were apparently intended to be covered by some provisions in the act (e.g., § 78C-121). [This draft contains two alternative versions of these modifications, shown in brackets. The first version makes use of a new definition of "former student athlete," found in new subdivision (8a). Please note that under the second alternative, the definition of "former student athlete" would not be needed.]

"§ 78C-113. Secretary of State; authority; procedure.

(a) ~~The [administrative procedure act]~~ Chapter 150B of the General Statutes applies to this Article. The Secretary of State may adopt rules under ~~the [administrative procedure act]~~ Chapter 150B of the General Statutes to implement this Article.

Staff Note: Subsection (a) is consistent with G.S. 78C-105 which authorizes the Secretary of State to adopt rules in accordance with Chapter 150B of the General Statutes, the "Administrative Procedure Act."

(b) By acting as an athlete agent in this State, a nonresident individual appoints the Secretary of State as the individual's agent for service of process in any civil action in this State related to the individual acting as an athlete agent in this State.

Staff Note: Subsection (b) is comparable to G.S. 78C-87(a).

(c) The Secretary of State may issue a subpoena for material that is relevant to the administration of this Article.

Staff Note: Subsection (c) is comparable to G.S. 78C-87(b).

"§ 78C-114. Athlete agent; registration required; void contract.

(a) Except as otherwise provided in subsection (b) of this section, an individual ~~may~~ shall not act as an athlete agent in this State without holding a certificate of registration under this Article.

Staff Note: Subsection (a) is similar to G.S. 78C-88(a) except that G.S. 78C-88(a) uses "[e]xcept as otherwise provided in this section" to take into account subsection (b)'s safe harbor for an unregistered individual with whom a student athlete initiates communications. The phrase "may not act" in the Uniform Act is changed to "shall not act" to conform with this State's drafting conventions.

(b) Before being issued a certificate of registration under this Article, an individual may act as an athlete agent in this State for all purposes except signing an agency contract, ~~if~~ if all of the following occur:

(1) A student athlete or another person acting on behalf of the student athlete initiates communication with the ~~individual; and individual.~~

(2) Not later than seven days after an initial act that requires the individual to register as an athlete agent, the individual submits an application for registration as an athlete agent in this ~~state.~~ State.

Staff Note: Subsection (b) is comparable to G.S. 78C-88(b).

(c) An agency contract resulting from conduct in violation of this section is void, and the athlete agent shall return any consideration received under the agency contract. The student athlete and the student athlete's parent or guardian are not required to return any consideration received by any of them from the athlete agent to influence the student athlete to enter into the agency contract.

Staff Note: Subsection (c) is comparable to G.S. 78C-88(d). Subsection (c) was modified to parallel the provisions in § 78C-120(e) and § 78C-122(c).

G.S. 78C-88(c) has not been brought forward into this draft. It is a non-uniform provision that provides a specific exception from registration requirements for a "North Carolina licensed and resident attorney" acting as an athlete agent "if the attorney neither advertises directly for, nor solicits, any student-athlete by representing to any person that the attorney has special experience or qualifications with regard to representing student-athletes and represents no more than two student-athletes." In the Uniform Act, attorneys licensed by this State have a narrower exception provided by the definition of "licensed, registered, or certified professional" in § 78C-112(11) and the exclusion for "licensed, registered, or certified professional" in the definition of "athlete agent" in § 78C-112(2)b.

"§ 78C-115. Registration as athlete agent; application; ~~requirements; reciprocal~~ registration; requirements.

(a) An applicant for registration as an athlete agent shall submit an application for registration to the Secretary of State in a form prescribed by the Secretary of State. The applicant must be an individual, and the application must be signed by the applicant under penalty of perjury. The application must contain at least the following:

(1) The ~~name~~ name, social security number, and date and place of birth of the applicant and the following contact information for the applicant:

a. The address of the applicant's principal place of ~~business;~~ business.

a1. Home address.

b. Work and mobile telephone ~~numbers; and~~ numbers.

- c. Any means of communicating electronically, including a facsimile number, electronic-mail address, and personal and business or employer ~~websites;~~ websites.

Staff Note: Subdivision (a)(1) expands G.S. 78C-89(a)(1) to require an application for registration as an athlete agent to contain not just the applicant's name and address of principal place of business but also the applicant's Social Security number, date and place of birth, work and mobile telephone numbers, and home and electronic mail addresses and social media accounts.

- (2) The name of the applicant's business or employer, if applicable, including for each business or employer, its mailing address, telephone number, organization form, and the nature of the ~~business;~~ business.

Staff Note: Subdivision (a)(2) expands G.S. 78C-89(a)(2) to require an application to contain not just the name of the applicant's business or employer but also the business or employer's mailing address, telephone number, organization form, and nature of business.

- (3) Each social-media account with which the applicant or the applicant's business or employer is ~~affiliated;~~ affiliated.

Staff Note: Subdivision (a)(3) is new to current law.

- (4) Each business or occupation in which the applicant engaged within five years before the date of the application, including self-employment and employment by others, and any professional or occupational license, registration, or certification held by the applicant during that ~~time;~~ time.

Staff Note: Subdivision (a)(4) is comparable to G.S. 78C-89(a)(3) but expands it by adding the "including" language.

- (5) A description of the applicant's:
- a. Formal training as an athlete ~~agent;~~ agent.
 - b. Practical experience as an athlete ~~agent; and~~ agent in detail.
 - c. Educational background relating to the applicant's activities as an

athlete ~~agent~~; agent.

Staff Note: Subdivision (a)(5) is comparable to G.S. 78C-89(a)(4). The General Statutes Commission added "in detail" in sub-subdivision (5)b. at its December 2016 meeting.

(6) The name of each ~~student~~ athlete for whom the applicant acted as an athlete agent within five years before the date of the application or, if the individual is a minor, the name of the parent or guardian of the minor, together with the athlete's sport and last-known ~~team~~; team.

Staff Note: Subdivision (a)(6) is comparable to G.S. 78C-89(a)(6) but expands it by adding the language "or, if the individual is a minor, the name of the parent or guardian of the minor."

(6a) The name of each athlete who terminated an agency contract or other professional agreement with the applicant or the applicant's then-employing organization within five years before the date of the application.

(6b) The name of each athlete whose agency contract or professional agreement with the applicant or the applicant's then-employing organization was terminated by the applicant or the applicant's then-employing organization within five years before the date of the application.

Staff Note: Subdivisions (6a) and (6b) have been added. They are new to both the current law and the Uniform Act.

(7) The name and address of each person ~~that~~; to which any of the following apply:

a. Is a partner, member, officer, manager, associate, or profit sharer or directly or indirectly holds an equity interest of five percent (5%) or greater of the athlete agent's business if it is not a

~~corporation;~~ and corporation.

- b. Is an officer or director of a corporation employing the athlete agent or a shareholder having an interest of five percent (5%) or greater in the ~~corporation;~~ corporation.

Staff Note: Subdivision (a)(7) is comparable to G.S. 78C-89(a)(7) but is phrased differently. In sub-subdivision (a)(7)a., the language "directly or indirectly holds an equity interest of five percent (5%) or greater" is new to current law.

- (8) A description of the status of any application by the applicant, or any person named under subdivision (7) of this subsection, for a state or federal business, professional, or occupational license, other than as an athlete agent, from a state or federal agency, including any denial, refusal to renew, suspension, withdrawal, or termination of the license and any reprimand or censure related to the ~~license;~~ license.

Staff Note: Subdivision (a)(8) is comparable to G.S. 78C-89(a)(12) but is phrased differently.

- (9) Whether the applicant, or any person named under subdivision (7) of this subsection, has pleaded guilty or no contest to, has been convicted of, or has charges pending for, a crime that would involve moral turpitude or be a felony if committed in this State and, if so, identification ~~of:~~ of all the following:

- a. The ~~crime;~~ crime.
- b. The law-enforcement agency ~~involved;~~ and involved.
- c. If applicable, the date of the conviction and the fine or penalty ~~imposed;~~ imposed.

Staff Note: Subdivision (a)(9) is comparable to G.S. 78C-89(a)(8) but expands it to require more information about the crime.

(10) Whether, within 15 years before the date of application, the applicant, or any person named under subdivision (7) of this subsection, has been a defendant or respondent in a civil proceeding, including a proceeding seeking an adjudication of incompetence and, if so, the date and a full explanation of each ~~proceeding;~~ proceeding.

Staff Note: Subdivision (a)(10) is new to current law.

(11) Whether the applicant, or any person named under subdivision (7) of this subsection, has an unsatisfied judgment or a judgment of continuing effect, including alimony or a domestic order in the nature of child support, which is not current at the date of the ~~application;~~ application.

Staff Note: Subdivision (a)(11) is new to current law.

(12) Whether, within 10 years before the date of application, the applicant, or any person named under subdivision (7) of this subsection, ~~was adjudicated bankrupt~~ has filed a petition in bankruptcy or was an owner of a business that ~~was adjudicated bankrupt.~~ has filed a petition in bankruptcy.

Staff Note: Subdivision (a)(12) is new to current law. The Uniform Act language has been changed to better fit the current bankruptcy provisions.

(13) Whether there has been any administrative or judicial determination that the applicant, or any person named under subdivision (7) of this subsection, made a false, misleading, deceptive, or fraudulent ~~representation;~~ representation.

Staff Note: Subdivision (a)(13) is comparable to G.S. 78C-89(a)(9).

(14) Each instance in which conduct of the applicant, or any person named under subdivision (7) of this subsection, resulted in the imposition of a sanction, suspension, or declaration of ineligibility to participate in an interscholastic, intercollegiate, or professional athletic event on a **student athlete** or a sanction on an educational ~~institution~~; institution.

Staff Note: Subdivision (a)(14) is comparable to G.S. 78C-89(a)(10) but expands it to add the language "or professional athletic event" and "a sanction on an."

(15) Each sanction, suspension, or disciplinary action taken against the applicant, or any person named under subdivision (7) of this subsection, arising out of occupational or professional ~~conduct~~; conduct.

Staff Note: Subdivision (a)(15) is comparable to G.S. 78C-89(a)(11).

(16) Whether there has been a denial of an application for, suspension or revocation of, refusal to renew, or abandonment of, the registration or licensure of the applicant, or any person named under subdivision (7) of this subsection, as an athlete agent in any ~~state~~; state.

Staff Note: Subdivision (a)(16) is comparable to G.S. 78C-89(a)(12) but expands it to add the language "or abandonment of." The Uniform Act did not bring forward the language "or licensure" from the phrase "the registration or licensure of the applicant" in the current law. The General Statutes Commission reinserted the phrase here and in subdivision (17) of this subsection to take account of states that may still use the term "license" in describing the equivalent provisions of their law.

(17) Each state in which the applicant currently is registered or licensed as an athlete agent or has applied to be registered or licensed as an athlete ~~agent~~; agent.

Staff Note: Subdivision (a)(17) is new to current law.

(18) If the applicant is certified or registered by a professional league or players

~~association:~~ association, all of the following:

- a. The name of the league or ~~association;~~ association.
- b. The date of certification or registration, and the date of expiration of the certification or registration, ~~if any; and if any.~~
- c. If applicable, the date of any denial of an application for, suspension or revocation of, refusal to renew, withdrawal of, or termination of, the certification or registration or any reprimand or censure related to the certification or ~~registration; and~~ registration.

Staff Note: Subdivision (a)(18) is new to current law.

- (19) Any additional information required by the Secretary of State.

Staff Note: Subdivision (a)(19) is new to current law.

~~(b) Instead of proceeding under subsection (a), an individual registered as an athlete agent in another state may apply for registration as an athlete agent in this state by submitting to the [Secretary of State]:~~

- ~~(1) A copy of the application for registration in the other state;~~
- ~~(2) A statement that identifies any material change in the information on the application or verifies there is no material change in the information, signed under penalty of perjury; and~~
- ~~(3) A copy of the certificate of registration from the other state.~~

~~(e) The [Secretary of State] shall issue a certificate of registration to an individual who applies for registration under subsection (b) if the [Secretary of State] determines:~~

- ~~(1) The application and registration requirements of the other state are substantially similar to or more restrictive than this [act] and~~

~~(2) The registration has not been revoked or suspended and no action involving the individual's conduct as an athlete agent is pending against the individual or the individual's registration in any state.~~

~~(d) For purposes of implementing subsection (c), the [Secretary of State] shall:~~

~~(1) Cooperate with national organizations concerned with athlete agent issues and agencies in other states which register athlete agents to develop a common registration form and determine which states have laws that are substantially similar to or more restrictive than this [act]; and~~

~~(2) Exchange information, including information related to actions taken against registered athlete agents or their registrations, with those organizations and agencies.~~

Staff Note: Subsections (b) and (c) of this section of the Uniform Act, like G.S. 78C-89(b), provide for reciprocal registration of athlete agents. Under subsections (b) and (c), if an individual registered in another state applies for registration in this State, the Secretary of State is required to grant the registration if the Secretary of State determines that the law in the other state is substantially similar to or more restrictive than the law in this State, the registration is in good standing, and no proceeding involving the individual's conduct as an athlete agent is pending in any state in which the individual is registered. The General Statutes Commission deleted these subsections in favor of requiring all applicants to present all information required by this act and the Secretary of State.

Subsection (d) would have been new to current law. It expressly authorized the Secretary of State to cooperate with national organizations and other states to aid in the development of a common application form and in making determinations of substantial similarity of laws. The General Statutes Commission deleted subsection (d) as unnecessary.

"§ 78C-116. Certificate of registration; issuance or denial; renewal.

(a) Except as otherwise provided in subsection (b) of this section, the Secretary of State shall issue a certificate of registration to an applicant for registration who complies with G.S. 78C-115(a).

Staff Note: Subsection (a) is comparable to G.S. 78C-90(a) but uses "applicant for registration" instead of "individual" and omits "or whose application has been accepted under G.S. 78C-89(b)."

(b) The Secretary of State may refuse to issue a certificate of registration to an applicant for registration under G.S. 78C-115(a) if the Secretary of State determines that the applicant has engaged in conduct that significantly adversely reflects on the applicant's fitness to act as an athlete agent. In making the determination, the Secretary of State may consider whether the applicant ~~has:~~ has done any of the following:

- (1) Pleaded guilty or no contest to, has been convicted of, or has charges pending for, a crime that would involve moral turpitude or be a felony if committed in this ~~state;~~ State.
- (2) Made a materially false, misleading, deceptive, or fraudulent representation in the application or as an athlete ~~agent;~~ agent.
- (3) Engaged in conduct that would disqualify the applicant from serving in a fiduciary ~~capacity;~~ capacity.
- (4) Engaged in conduct prohibited by ~~Section 14;~~ G.S. 78C-124.
- (5) Had a registration or licensure as an athlete agent suspended, revoked, or denied in any ~~state;~~ state.
- (6) Been refused renewal of registration or licensure as an athlete agent in any ~~state;~~ state.
- (7) Engaged in conduct resulting in imposition of a sanction, suspension, or declaration of ineligibility to participate in an interscholastic, intercollegiate, or professional athletic event on a **student athlete** or a sanction on an educational ~~institution;~~ or institution.

- (8) Engaged in conduct that adversely reflects on the applicant's credibility,
honesty, or integrity.

Staff Note: Subsection (b) is comparable to G.S. 78C-90(b).

(c) In making a determination under subsection (b) of this section, the Secretary of
State shall ~~consider:~~ consider all of the following:

(1) How recently the conduct ~~occurred;~~ occurred.

(2) The nature of the conduct and the context in which it ~~occurred; and~~
occurred.

(3) Other relevant conduct of the applicant.

Staff Note: Subsection (c) is comparable to G.S. 78C-90(c).

(d) An athlete agent registered under subsection (a) of this section may apply to
renew the registration by submitting an application for renewal in a form prescribed by the
Secretary of State. The applicant shall sign the application for renewal under penalty of perjury
and include current information on all matters required in an original application for registration.

Staff Note: Subsection (d) is comparable to G.S. 78C-90(d).

~~(e) An athlete agent registered under Section 5(c) may renew the registration by
proceeding under subsection (d) or, if the registration in the other state has been renewed, by
submitting to the [Secretary of State] copies of the application for renewal in the other state and
the renewed registration from the other state. The [Secretary of State] shall renew the
registration if the [Secretary of State] determines:~~

~~(1) The registration requirements of the other state are substantially similar to
or more restrictive than this [act]; and~~

~~(2) The renewed registration has not been suspended or revoked and no action~~

~~involving the individual's conduct as an athlete agent is pending against
the individual or the individual's registration in any state.~~

Staff Note: Subsection (e) is comparable to G.S. 78C-90(e). This subsection has been deleted to conform to the deletion of § 78C-115(c) and (d).

(f) A certificate of registration or renewal of registration under this Article is valid for ~~[two] years.~~ one year.

Staff Note: Subsection (f) is comparable to G.S. 78C-90(f). However, G.S. § 78C-90(f) provides for a validation period of one year rather than the bracketed two years.

"§ 78C-117. Suspension, revocation, or refusal to renew registration.

(a) The Secretary of State may limit, suspend, revoke, or refuse to renew a registration of an individual registered under G.S. 78C-116(a) for conduct that would have justified refusal to issue a certificate of registration under G.S. 78C-116(b) or for any other violation of this Article or the rules adopted under it. In making a determination under this section, the Secretary of State shall consider the factors in G.S. 78C-116(c).

~~(b) The [Secretary of State] may suspend or revoke the registration of an individual registered under Section 5(c) or renewed under Section 6(e) for any reason for which the [Secretary of State] could have refused to grant or renew registration or for conduct that would justify refusal to issue a certificate of registration under Section 6(b).~~

Staff Note: § 78C-117 is similar to G.S. 78C-91 but reflects the reciprocal registration provisions of §§ 78C-115 and 78C-116 in subsection (b). While § 78C-117 has no counterpart to G.S. 78C-91(b), which provides that the Secretary of State may deny, suspend, revoke, or renew a registration "only after proper notice and an opportunity for a hearing in accordance with the Administrative Procedures Act pursuant to Article 3 of Chapter 150B of the General Statutes," § 78C-113(a) expressly provides that "Chapter 150B of the General Statutes applies to this Article." It is therefore not necessary to bring G.S. 78C-91(b) forward. Subsection (b) of the Uniform Act has been deleted to conform to the deletion of § 78C-115(c) and (d) (reciprocal registration).

"§ 78C-118. Temporary registration.

The Secretary of State may issue a temporary certificate of registration as an athlete agent while an application for registration or renewal of registration is pending.

Staff Note: § 78C-118 is comparable to G.S. 78C-92.

"§ 78C-119. Registration and renewal fees.

An application for registration or renewal of registration as an athlete agent must be accompanied by a fee in the following amount:

(1) ~~[\$] for an initial application for registration;~~ Initial application for registration \$200.00

(2) ~~[\$] for registration based on a certificate of registration issued by another state;~~

(3)(2) ~~[\$] for an application for renewal of registration; or~~ Application for renewal of registration \$200.00

(4) ~~[\$] for renewal of registration based on a renewal of registration in another state.~~

Staff Note: § 78C-119 is comparable to G.S. 78C-93 in setting the fees for registration and renewal of registration. The fee amounts are the current amounts set out in G.S. 78C-93. Subdivisions (2) and (4) have been deleted to conform to the deletion of 78C-115(c) and (d) (reciprocal registration).

"§ 78C-120. Required form of agency contract.

(a) An agency contract must be in a record signed by the parties.

Staff Note: Subsection (a) is comparable to G.S. 78C-94(a). The term "record" is defined in § 78C-112(14), and the term "sign" is defined in § 78C-112(17).

(b) An agency contract must ~~contain:~~ contain all of the following:

(1) A statement that the athlete agent is registered as an athlete agent in this

State and a list of any other states in which the athlete agent is registered
as an athlete ~~agent;~~ agent.

(2) The amount and method of calculating the consideration to be paid by the
student athlete for services to be provided by the athlete agent under the
agency contract and any other consideration the athlete agent has received
or will receive from any other source for entering into the agency contract
or providing the ~~services;~~ services.

(3) The name of any person not listed in the athlete agent's application for
registration or renewal of registration which will be compensated because
the student athlete signed the ~~contract;~~ agency contract.

(4) A description of any expenses the student athlete agrees to ~~reimburse;~~
reimburse.

(5) A description of the services to be provided to the ~~athlete;~~ student athlete.

(6) The duration of the ~~contract; and~~ agency contract.

(7) The date of execution.

Staff Note: Subdivisions (b)(2) through (b)(7) are comparable to G.S. 78C-94(b)(1) through
(b)(6). Subdivision (b)(1) is new to current law and requires an agency contract to contain a
statement that the athlete agent is registered in this State and a list of any other states in which
the agent is registered.

(c) Subject to subsection (g) of this section, an agency contract must contain a
conspicuous notice in boldface type and in substantially the following form:

~~WARNING TO STUDENT ATHLETE~~ Warning to student athlete

~~IF YOU SIGN THIS CONTRACT:~~ If you sign this contract:

(1) ~~YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE AS A STUDENT
ATHLETE IN YOUR SPORT;~~ You may lose your eligibility to compete as a student
athlete in your sport;

(2) ~~IF YOU HAVE AN ATHLETIC DIRECTOR, WITHIN 72 HOURS AFTER
SIGNING THIS CONTRACT OR BEFORE THE NEXT SCHEDULED ATHLETIC
EVENT IN WHICH YOU PARTICIPATE, WHICHEVER OCCURS FIRST, BOTH YOU
AND YOUR ATHLETE AGENT MUST NOTIFY YOUR ATHLETIC DIRECTOR THAT
YOU HAVE ENTERED INTO THIS CONTRACT AND PROVIDE THE NAME AND
CONTACT INFORMATION OF THE ATHLETE AGENT; AND~~ If you have an athletic
director, within 72 hours after signing this contract or before the next scheduled athletic
event in which you participate, whichever occurs first, both you and your athlete agent
must notify your athletic director that you have entered into this contract and provide the
name and contact information of the athlete agent;

(3) ~~YOU MAY CANCEL THIS CONTRACT WITHIN 14 DAYS AFTER
SIGNING IT. CANCELLATION OF THIS CONTRACT MAY NOT REINSTATE
YOUR ELIGIBILITY AS A STUDENT ATHLETE IN YOUR SPORT.~~ You may cancel
this contract within 14 days after signing it. Cancellation of this contract may not reinstate
your eligibility as a student athlete in your sport.

Staff Note: Subsection (c) is comparable to G.S. 78C-94(c), but the form is modified in light of the notice requirements of § 78C-121(b) and (c). Also, subsection (c) of the Uniform Act does not require that the form notify a student athlete that the athlete waives the athlete's attorney-client privilege with respect to the agency contract. In reference to the waiver of attorney-client privilege, § 78C-120 does not contain a provision comparable to G.S. 78C-94(f), which reads: "The waiver of attorney-client privilege does not affect those privileges between client and

attorney when the attorney is not an athlete agent."

(d) An agency contract must be accompanied by a separate record signed by the student athlete or, if the student athlete is a minor, the parent or guardian of the student athlete acknowledging that signing the agency contract may result in the loss of the student athlete's eligibility to participate in the student athlete's sport.

Staff Note: Subsection (d) is new to current law.

(e) A student athlete or, if the student athlete is a minor, the parent or guardian of the student athlete may void an agency contract that does not conform to this section. If the agency contract is voided, any consideration received from the athlete agent under the agency contract to induce entering into the agency contract is not required to be returned.

Staff Note: Subsection (e) is comparable to G.S. 78C-94(d) but adds provisions for minor student athletes.

(f) At the time an agency contract is executed, the athlete agent shall give the student athlete or, if the student athlete is a minor, the parent or guardian of the student athlete a copy in a record of the agency contract and the separate acknowledgement required by subsection (d) of this section.

Staff Note: Subsection (f) is comparable to G.S. 78C-94(e). Subsection (f) adds provisions for minor student athletes and includes a conforming amendment referring to the separate acknowledgment required by subsection (d) of this section.

(g) If a student athlete is a minor, an agency contract must be signed by the parent or guardian of the minor and the notice required by subsection (c) of this section must be revised accordingly.

Staff Note: Subsection (g) is new to current law.

"§ 78C-121. Notice to educational institution.

(a) In this section, "communicating or attempting to communicate" means contacting

or attempting to contact by an in-person meeting, a record, or any other method that conveys or attempts to convey a message.

Staff Note: Subsection (a) is new to current law. It defines "communicating or attempting to communicate" for purposes of subsections (f) and (g) of this section.

(b) Not later than 72 hours after entering into an agency contract or before the next scheduled athletic event in which the student athlete may participate, whichever occurs first, the athlete agent shall give notice in a record of the existence of the agency contract to the athletic director of the educational institution at which the student athlete is ~~enrolled~~ enrolled, was most recently enrolled, or at which the athlete agent has reasonable grounds to believe the student athlete intends to enroll.

Staff Note: Subsection (b) is comparable to G.S. 78C-95(a). There are stylistic differences between the two subsections. [Also, the language "was most recently enrolled" was added to subsection (b) because of the expansion of the protections of the act to former student athletes as defined in § 78C-112(8a).]

(c) Not later than 72 hours after entering into an agency contract or before the next scheduled athletic event in which the student athlete may participate, whichever occurs first, the student athlete shall inform the athletic director of the educational institution at which the student athlete is enrolled or was most recently enrolled that the student athlete has entered into an agency contract and the name and contact information of the athlete agent.

Staff Note: Subsection (c) is comparable to G.S. 78C-95(b) in requiring a student athlete to notify an educational institution that the athlete has entered into an agency contract. However, subsection (c) adds the requirement that the notice include the name and contact information of the athlete agent. Also, there are stylistic differences between the two subsections [and the language "was most recently enrolled" was added to subsection (c) because of the expansion of the protections of the act to former student athletes as defined in § 78C-112(8a).]

(d) If an athlete agent enters into an agency contract with a student athlete and the student athlete subsequently enrolls at an educational institution, the athlete agent shall notify the athletic director of the educational institution of the existence of the agency contract not later

than 72 hours after the athlete agent knew or should have known the student athlete enrolled.

Staff Note: Subsection (d) is new to current law.

(e) If an athlete agent has a relationship with a student athlete before the student athlete enrolls in an educational institution and receives an athletic scholarship from the educational institution, the athlete agent shall notify the educational institution of the relationship not later than 10 days after the enrollment if the athlete agent knows or should have known of the enrollment ~~and:~~ and any of the following has occurred:

(1) The relationship was motivated in whole or part by the intention of the athlete agent to recruit or solicit the student athlete to enter an agency contract in the ~~future;~~ or future.

(2) The athlete agent directly or indirectly recruited or solicited the student athlete to enter an agency contract before the enrollment.

Staff Note: Subsection (e) is new to current law.

(f) An athlete agent shall give notice in a record to the athletic director of any educational institution at which a student athlete is enrolled or was most recently enrolled before the athlete agent communicates or attempts to communicate ~~with:~~ with any of the following:

(1) The student athlete or, if the student athlete is a minor, a parent or guardian of the student athlete, to influence the student athlete or parent or guardian to enter into an agency ~~contract;~~ or contract.

(2) Another individual to have that individual influence the student athlete or, if the student athlete is a minor, the parent or guardian of the student athlete to enter into an agency contract.

Staff Note: Subsection (f) is new to current law.

(g) If a communication or attempt to communicate with an athlete agent is initiated by a student athlete or another individual on behalf of the student athlete, the athlete agent shall notify in a record the athletic director of any educational institution at which the student athlete is ~~enrolled.~~ enrolled or was most recently enrolled. The notification must be made not later than 10 days after the communication or attempt.

Staff Note: Subsection (g) is new to current law.

(g1) An athlete agent who knows or should have known of a violation of this Article that could render a student athlete ineligible to engage in an interscholastic or intercollegiate sport shall, not later than 72 hours after becoming aware of the violation, give notice in a record of the existence of the violation to the athletic director of the educational institution at which the student athlete is enrolled, was most recently enrolled, or at which the athlete agent has reasonable grounds to believe the student athlete intends to enroll.

Staff Note: This subsection is not in the Uniform Act and is new to current law.

(h) An educational institution that becomes aware of a violation of this Article by an athlete agent shall ~~notify~~ give notice of the violation to the Secretary of State and any professional league or players association with which the educational institution is aware the athlete agent is licensed or ~~registered of the violation.~~ registered.

Staff Note: Subsection (h) is new to current law. The Uniform Act text was amended to move the phrase "of the violation" closer to the giving of notice because as drafted, the phrase dangled.

[(i) The Secretary of State may adopt rules to require notification of additional matters or notification to additional parties.]

Staff Note: Subsection (i) is still under discussion. It is not in the Uniform Act or explicitly in the current law.

"§ 78C-122. Student athlete's right to cancel.

(a) A student athlete or, if the student athlete is a minor, the parent or guardian of the student athlete may cancel an agency contract by giving notice in a record of cancellation to the athlete agent not later than 14 days after the agency contract is signed.

(b) A student athlete or, if the student athlete is a minor, the parent or guardian of the student athlete may not waive the right to cancel an agency contract.

(c) If a student athlete, parent, or guardian cancels an agency contract, the student athlete, parent, or guardian is not required to pay any consideration under the agency contract or return any consideration received from the athlete agent to influence the student athlete to enter into the agency contract.

Staff Note: § 78C-122 is comparable to G.S. 78C-96 in giving a student athlete the right to cancel an agency contract within 14 days of signing the contract. The right may not be waived, and the athlete is not required to pay any consideration under the contract or return any consideration received from the agent to influence the athlete to enter into the contract.

Unlike G.S. 78C-96, § 78C-122 provides that, if the student athlete is a minor, the parent or guardian of the athlete has a right to cancel the agency contract, may not waive the right, and is not required to pay any consideration under the contract or return any consideration received.

"§ 78C-123. Required records.

(a) An athlete agent shall create and retain for five years records of all the following:

(1) The name and address of each individual represented by the ~~agent;~~ athlete agent.

(2) Each agency contract entered into by the ~~agent; and~~ athlete agent.

(3) The direct costs incurred by the athlete agent in the recruitment or solicitation of each student athlete to enter into an agency contract.

(b) Records described in subsection (a) of this section are open to inspection by the Secretary of State during normal business hours.

***Staff Note:** § 78C-123 is comparable to G.S. 78C-97 in requiring an athlete agent to create and retain for five years records of specified information that must be open to inspection by the enforcement agency during normal business hours. However, G.S. 78C-97 also provides that the student athlete is deemed to waive the attorney-client privilege with respect to the records retained by the agent, subject to G.S. 78C-94(f). Also, there are stylistic differences between the two sections.*

"§ 78C-124. Prohibited conduct.

(a) An athlete agent, with the intent to influence a **student athlete** or, if the **student athlete** is a minor, a parent or guardian of the **student athlete** to enter into an agency contract, ~~may shall~~ not take any of the following actions or encourage any other individual to take or assist any other individual in taking any of the following actions on behalf of the **athlete** agent:

- (1) Give materially false or misleading information or make a materially false promise or ~~representation; representation.~~
- (2) Furnish anything of value to ~~the athlete before the athlete enters into the contract; or a~~ **student athlete.**
- (3) Furnish anything of value to an individual other than the **student athlete** or another registered athlete agent.

(b) ~~Unless registered under this Article, an athlete agent shall not intentionally (i) initiate contact, directly or indirectly, with a student athlete or, if the student athlete is a minor, a parent or guardian of the student athlete, to recruit or solicit the student athlete, parent, or guardian to enter an agency contract or (ii) encourage any other individual to do so on behalf of the athlete agent.~~

(c) An athlete agent ~~may shall~~ not intentionally do any of the following or encourage any other individual to do any of the following on behalf of the **athlete** agent:

- (1) ~~Initiate contact, directly or indirectly, with a student athlete or, if the athlete is a minor, a parent or guardian of the athlete, to recruit or solicit~~

~~the athlete, parent, or guardian to enter an agency contract unless
registered under this [act];~~ Reserved.

(2) Fail to create or retain or to permit inspection of the records required by
~~Section 13; G.S. 78C-123.~~

(3) Fail to register when required by ~~Section 4; G.S. 78C-114.~~

(4) Provide materially false or misleading information in an application for
registration or renewal of ~~registration; registration.~~

(5) Predate or postdate an agency ~~contract; or contract.~~

(6) Fail to notify a **student athlete** or, if the **student athlete** is a minor, a parent
or guardian of the **student athlete**, before the **student athlete**, parent, or
guardian signs an agency contract for a particular sport that the signing
may make the **student athlete** ineligible to participate as a **student athlete**
in that sport.

*Staff Note: § 78C-124 is comparable to G.S. 78C-98 in describing the conduct which gives rise
to criminal penalties and civil liabilities. However, § 78C-124 adds language to reflect the
circumstance when an agency contract involves a student athlete who is a minor and prohibits
an athlete agent from encouraging any other individual to take or assist another individual in
taking any of the prohibited conduct on behalf of the agent.*

"§ 78C-125. Criminal penalty.

An athlete agent who violates ~~Section 14~~ any provision under G.S. 78C-124(a) or (b) is
guilty of a ~~[misdemeanor] [felony] and, on conviction, is punishable by [—].~~ Class H felony.

An athlete agent who violates any provision under G.S. 78C-124(c) is guilty of a Class 1
misdemeanor.

*Staff Note: § 78C-125, like G.S. 78C-99, establishes the criminal penalty which may be imposed
for prohibited conduct. Under G.S. 78C-99, however, only subsection (a) was a felony, and it
was a Class I felony.*

"§ 78C-126. Civil remedy.

(a) An educational institution or student athlete may bring an action for damages against an athlete agent if the educational institution or student athlete is adversely affected by an act or omission of the athlete agent in violation of this Article. An educational institution or student athlete is adversely affected by an act or omission of the athlete agent only if, because of the act or omission, the educational institution or an individual who was a student athlete at the time of the act or omission [and enrolled in the educational institution]:

(1) Is suspended or disqualified from participation in an interscholastic or intercollegiate sports event by or under the rules of a state or national federation or association that promotes or regulates interscholastic or intercollegiate sports; or

(2) Suffers financial damage.

~~(b) A plaintiff that prevails in an action under this section may recover [actual damages] [treble damages] [,] [punitive damages,] [and] costs[, and reasonable attorney's fees]. An athlete agent found liable under this section forfeits any right of payment for anything of benefit or value provided to the student athlete and shall refund any consideration paid to the agent by or on behalf of the athlete.~~

~~[(e) A violation of this Article is an [unfair trade or deceptive practice] for purposes of [insert reference to state's unfair trade practices law].]~~

~~(b) A violation of this Article is an unfair trade or deceptive practice for purposes of Chapter 75 of the General Statutes.~~

~~(c) A plaintiff that prevails in an action under this section may recover actual damages and costs and any other remedies, including attorneys' fees, provided under Chapter 75~~

of the General Statutes. An athlete agent found liable under this section forfeits any right of payment for anything of benefit or value provided to the student athlete and shall refund any consideration paid to the athlete agent by or on behalf of the student athlete.

Staff Note: § 78C-126 differs from G.S. 78C-100 in establishing a civil remedy for engaging in prohibited conduct. Under G.S. 78C-100, an educational institution has a right of action against an athlete agent or a former student athlete for damages caused by prohibited conduct. § 78C-126 removes the cause of action against a former student athlete and gives a student athlete a cause of action against the athlete agent. § 78C-126(b) has no counterpart in G.S. 78C-100.

"§ 78C-127. Civil ~~penalty~~penalty; consideration factors.

(a) The Secretary of State may assess a civil penalty against an athlete agent not to exceed ~~[\$50,000]~~ two hundred fifty thousand dollars (\$250,000) or the amount of consideration the athlete agent received, whichever is greater, for a violation of this Article. The Secretary of State shall consider all the following factors:

(1) The degree and extent of harm to the student athlete and the student athlete's educational institution, including reputational harm.

(2) The nature, gravity, and duration of the violation.

(3) Whether the violation was committed willfully.

(4) Whether the violation reflects a continuing pattern of conduct.

(5) Whether the violation involved elements of fraud or deception of the student athlete, the student athlete's educational institution, or the Secretary of State.

(6) Whether the athlete agent breached any fiduciary duty.

(7) Whether and the extent to which the athlete agent profited by the violation.

(8) Any failure of the athlete agent to provide timely or complete responses to

any of the following:

a. The Secretary of State's inquiries about the athlete agent's activities.

b. Any request for records by the Secretary of State.

(9) Whether the athlete agent obstructed the inspection of records or any other aspect of an investigation by the Secretary of State.

(10) Whether the athlete agent exercised reasonable diligence to comply with this Article and any rules adopted under this Article.

(11) Whether the athlete agent reported the violation to the Secretary of State and, if so, after what period of time following the violation.

(12) Efforts by the athlete agent to correct the violation.

(13) Any prior violation by the athlete agent of this Article, former Articles 7, 8, or 9 of this Chapter, any rules adopted under this Article, or a similar law of any other state.

(14) Whether the athlete agent has pleaded guilty or no contest to or has been convicted of any other criminal law that bears on the athlete agent's fitness to be an athlete agent but has not caused the Secretary of State to limit, suspend, revoke, or refuse to renew the athlete agent's registration under this Article. *[Staff Note: This is to allow consideration of other criminal*

offenses that are not the subject of administrative proceedings.]

(15) Whether payment of the civil penalty will prevent payment of damages under G.S. 78C-126 or payment of any other relief in the nature of restitution.

(16) Any other factors that would tend to mitigate or aggravate the violation.

(b) The Secretary of State is not required to adopt rules to implement subsection (a) of this section.

(c) The clear proceeds of civil penalties imposed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

Staff Note: G.S. 78C-101 currently allows the assessment of a civil penalty against an athlete agent not to exceed \$25,000 for a violation of the Article. This section increases the possible amount and adds factors, not found in either the G.S. 78C-101 or the Uniform Act, to be considered in assessing the penalty.

"§ 78C-129. Uniformity of application and construction.

In applying and construing this Uniform Act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Staff Note: § 78C-129 is comparable to G.S. 78C-102 and is a standard provision in uniform acts.

"§ 78C-130. Relation to Electronic Signatures in Global and National Commerce Act.

This Article modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq., but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Section 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Section 7003(b)."

Staff Note: § 78C-130 is comparable to G.S. 78C-103 and is a standard provision in uniform acts that responds to specific language of the Electronic Signatures in Global and National Commerce Act and is designed to avoid preemption of State law under that federal statute.

SECTION 3. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

1 *Staff Note: Section 3 is the Uniform Act's Section 21, a standard severability provision.*

2 **SECTION 4.** The Revisor of Statutes shall cause to be printed, as annotations to the
3 published General Statutes, all relevant portions of the Official Comments to the Revised
4 Uniform Athlete Agents Act (2015) and all explanatory comments of the drafters of this act as
5 the Revisor may deem appropriate.

6 **SECTION 5.** This act becomes effective December 1, 2017, and applies to acts and
7 omissions occurring on or after that date. Prosecutions for offenses committed before the
8 effective date of this act are not abated or affected by this act, and the statutes that would be
9 applicable but for this act remain applicable to those prosecutions.